



# UNITED STATES PATENT AND TRADEMARK OFFICE

*con*

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,773	03/26/2004	Jasna Roeth	LEAP:125US	9680

7590 12/22/2006  
Robert P. Simpson, Esq.  
Simpson & Simpson, PLLC  
5555 Main Street  
Williamsville, NY 14221-5406

EXAMINER
----------

LAVARIAS, ARNEL C

ART UNIT	PAPER NUMBER
----------	--------------

2872

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/810,773

Applicant(s)

ROETH ET AL.

Examiner

Arnel C. Lavarias

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 12-15 and 24-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 is/are allowed.
- 6) ☒ Claim(s) 16-17, 19-23 is/are rejected.
- 7) ☐ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/06 has been entered.

### ***Terminal Disclaimer***

2. The terminal disclaimer filed on 10/23/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application Number 10/810979 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Response to Amendment***

3. The amendments to Claims 1, 16 in the submission dated 10/23/06 are acknowledged and accepted.
4. In view of the submission of a terminal disclaimer above, the double patenting rejections in Section 10 of the Office Action dated 8/29/06 are respectfully withdrawn.

Art Unit: 2872

5. Further, in view of the amendments made to Claim 16, Claims 16-23 are again readable on the elected invention, and hence are no longer withdrawn from consideration and will be examined along with the elected invention.

***Response to Arguments***

6. The Applicants argue that, with respect to newly amended Claim 1, as well as Claims 2-11 which depend on Claim 1, Stahl et al. and Kuroha fail to teach or reasonably suggest the microscope stage mechanism being detachably secured to the underside of the stage on the left of the right side of the stage, wherein the end of the drive mechanism is receivable into the first hole and is receivable into the second hole. After reviewing Stahl et al. and Kuroha, the Examiner agrees, and respectfully withdraws the rejections in Sections 12-14 of the Office Action dated 8/29/06.
7. Claims 16-17, 19-23 are now rejected as follows.

***Claim Objections***

8. Claims 1-11, 17-18 are objected to because of the following informalities:
- Claim 1 recites the limitation "the left" and "the right" in lines 4, 6, and 10. There is insufficient antecedent basis for this limitation in the claim.
- Claim 1 recites the limitation "a microscope stage drive mechanism" in line 5. This appears problematic, since it is not certain whether this refers to the microscope stage drive mechanism in line 3 or an alternate stage drive mechanism not previously claimed.

Art Unit: 2872

Claim 17 recites the limitation "said stage drive mechanism" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "said stage drive mechanism" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-11 are dependent on Claim 1, and hence inherit the deficiencies of Claim 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 16-17, 20, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima (U.S. Patent No. 3572888) in view of Daniel (U.S. Patent No. 2500604).

Kawashima discloses an interchangeable microscope stage drive assembly (See for example Figures 1, 3, 5), comprising a microscope stage (See for example 1, 2 in Figures 1, 3) having a hole on the left and a hole on the right side (See for example the two holes in element 2 for attachment of elements 2a, 2b in Figures 1, 3, 5) of the stage; and a drive mechanism (See for example slide holder 2a, 2b, 3, 14, 17, and associated mounting hardware in Figures 1, 3, 5) securable to the microscope stage to the left and right side of the stage, wherein the drive mechanism is secured to the stage by inserting an end of the

drive mechanism (See specifically the mounting hardware for mounting 2a, 2b in Figures 1, 3, 5) in the holes at the right and left side of the stage. Kawashima additionally discloses a microscope (See for example Abstract); and a rack and pinion operatively arranged to effect forward and backward movement of the stage and a slide holder (See for example Figure 6). Kawashima lacks the drive mechanism being detachably secured, such as by a set screw. However, the use of screws to detachably secure a slide holder to a microscope stage is well known and conventional in the art. For example, Daniel teaches a conventional microscope stage (See for example 12 in Figures 1-2), wherein the slide holders (See for example 25, 26 in Figure 2) are detachably secured to the stage via screws (See for example 28 in Figures 1-2). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the drive mechanism be detachably secured, such as by a set screw, as taught by Daniel, in the assembly of Kawashima, to allow for removal of the drive mechanism in case of cleaning, or replacement of the drive mechanism in case of damage.

11. Claims 19, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima in view of Daniel as applied to Claim 16 above, and further in view of Kanao (U.S. Patent No. 5802925), of record.

Kawashima in view of Daniel discloses the invention as set forth above in Claim 16, except for the first and second locations further comprising a belt and pulley operatively arranged to engage the microscope stage drive mechanism, so as to effect lateral movement of the slide holder and/or forward and backward movement of the stage. However, the use of belts and pulleys as an alternative means of moving microscope

stages and slide holders is known in the art. For example, Kanao teaches a conventional microscope stage (See for example Figures 1-2, 8-9), wherein stage and sample slide movement in both the x (lateral) and y (forward and backward) directions may be effected by either rack and pinion or, more advantageously, belt and pulley (See for example 8, 9a-b, 10a-b, 11 in Figure 1). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first and second locations further comprise a belt and pulley operatively arranged to engage the microscope stage drive mechanism, so as to effect lateral movement of the slide holder and/or forward and backward movement of the stage, as taught by Kanao, in the assembly of Kawashima in view of Daniel, for the purpose of effecting smooth and stable operational movement of the stage without receiving resistance of movement from the stage drive mechanism.

*Allowable Subject Matter*

12. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
13. Claims 1-11 would be allowable if rewritten or amended to overcome the claim objection(s) set forth in this Office action.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

JP 2004294497 A to Shiba et al.

Shiba et al. is being cited to evidence a conventional microscope stage (See for example Figures 1-2, 4, 14-15) similar to that of the disclosed invention. However, Shiba et al. is not available as prior art against the instant application.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arnel C. Lavarias  
Primary Examiner  
Group Art Unit 2872  
12/14/06

  
ARNEL LAVARIAS  
PRIMARY PATENT EXAMINER